

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NO. TF-03-130
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**ORDER GRANTING INTERVENTIONS
AND SETTING PREHEARING CONFERENCE**

(Issued June 18, 2003)

On June 9, 2003, South Slope Cooperative Telephone Company Inc. (South Slope) filed a petition to intervene in this case. South Slope alleges that as a competitor to Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), it has an obvious direct interest in the subject matter of this case and is affected by Iowa Telecom's proposed tariff that would be applicable in South Slope's service territory. It argues that it meets the requirements for intervention of right and permissive intervention in 199 IAC 7.2(7)"d"(1) and (2).

On June 10, 2003, the Iowa Association of Municipal Utilities (IAMU) also filed a petition to intervene. IAMU alleges that it is a trade organization with many members who compete with Iowa Telecom in many exchanges, and argues that it meets the requirements for intervention of right in 199 IAC 7.2(7)"d"(1).

On June 16, 2003, Iowa Telecom filed a resistance to the petitions to intervene. Iowa Telecom argues that the interests the petitioners seek to assert either are not unique or sufficiently distinct from the interests represented by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and therefore the intervention is not necessary, or they are not interests that can be

legitimately asserted in this case, and therefore are substantively precluded. Iowa Telecom argues that granting intervention will complicate and prolong the case without any basis for believing the proposed tariff is anything other than legitimate price competition. Iowa Telecom argues that the Board is to encourage competition, not protect the interests of competitors. Iowa Telecom presented additional arguments that relate more to the merits of the case than whether the petitions for intervention should be granted or denied.

199 IAC 7.2(7)"d"(1) provides that any person will be permitted to intervene as a matter of right in a proceeding when the petitioner has an interest in the subject matter of the proceeding, and the petitioner's interests are unique and require representation in addition to the existing parties. The rule further states that when determining whether the interests of a petitioner are unique and require representation in addition to the existing parties, the consumer advocate's role of representing the public interest shall not be interpreted as representing every potential interest in the proceeding.

The proposed tariff would expand Iowa Telecom's Win Back program, which appears to be designed to attract customers away from competitors and toward Iowa Telecom. As competitors of Iowa Telecom in areas in which the tariff would be effective, South Slope and the competing members of IAMU have an interest in the determination of whether the proposed tariff and competition pursuant to it are lawful or unlawful. The interests of the petitioners are unique, require representation in addition to the existing parties, and are separate and apart from those being represented by the Consumer Advocate. Therefore, the petitioners meet the requirements for intervention of right in 199 IAC 7.2(7)"d"(1). Some of the arguments

presented by Iowa Telecom in its resistance are appropriate to consider with the merits of the case rather than in determining whether the petitioners meet the requirements for intervention, and will therefore not be considered at this time.

In its order issued May 29, 2003, the Board ordered the undersigned administrative law judge to conduct a prehearing conference to determine whether a hearing is necessary in this case. At the prehearing conference, the parties should be prepared to discuss whether prefiled testimony and a hearing are necessary, or whether there are alternative methods of presenting evidence, such as by stipulation of facts, that would be workable in this proceeding. The parties should also be prepared to agree on a procedural schedule. If the parties have other issues to discuss, they may raise them during the prehearing conference.

IT IS THEREFORE ORDERED:

1. The petitions to intervene filed by South Slope and IAMU are granted pursuant to 199 IAC 7.2(7)"d"(1).
2. A prehearing conference to discuss the issues as stated in the body of this order will be held beginning at 2:00 p.m. on Monday, June 23, 2003, in Conference Room 3, 350 Maple Street, Des Moines, Iowa.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 18th day of June, 2003.